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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

Sharon Norbert

Civil Action No. 05-1650

versus

Judge Tucker L. Melançon

Louisiana Medical Center, et al.

Magistrate Judge Mildred E. Methvin

MEMORANDUM RULING AND JUDGMENT

This matter was referred to United States Magistrate Judge Mildred E. Methvin for her Report and Recommendation on defendant's Motion to Dismiss Amended Complaint [Rec. Doc. 8 and 27]. Magistrate Judge Methvin issued her Report and Recommendation on July 11, 2006 [Rec. Doc. 32] and defendant filed objections on July 21, 2006 [Rec. Doc. 34]. Defendant objects to the magistrate's finding that the Louisiana Department of Health and Hospitals is the proper party defendant in this case and that University Medical Center can be properly named and served pursuant to LSA-R.S. 17:1519.2 and LSA-R.S. 17:3215. Defendant also objects to the magistrate judge's finding that defendant did not challenge whether Norbert has exhausted her administrative remedies.

On July 14, 2006, during the interval between the filing of the Report and Recommendation and the filing of the objections, *pro se* plaintiff Sharon Norbert filed her Motion to Amend Petition and Memorandum in Opposition to Motion to

Dismiss and to Support Plaintiff's Amended Complaint [Rec. Doc. 33]. Plaintiff states that she has obtained pro-bono advice and requests that she be allowed to amend and supplement her complaint for the second time to properly name the defendant [Plaintiff's motion, Rec. Doc. 33 at 2]. Norbert requests that she be allowed to amend the caption of her complaint as follows: State of Louisiana, Louisiana State University Health Sciences Center, Health Care Services Division D/B/A University Medical Center, Lafayette. Norbert also requests additional time to effect proper service [Id. at 5]. Defendant has not filed an opposition to this motion but has noted in its objection to the magistrate's findings that University Medical Center can be properly named as a defendant in this matter.

After an independent review of the record and considering the objections filed, this Court concludes that the Report and Recommendation of the magistrate judge is correct and this Court adopts the conclusions set forth therein with the exception that the Court notes that University Medical Center can be properly named and served pursuant to LSA-R.S. 17:1519.2 and LSA-R.S. 17:3215.

IT IS THEREFORE ORDERED that the Motions to Dismiss¹ are **DENIED**.

IT IS FURTHER ORDERED that plaintiff's Motion to Amend Petition and Memorandum in Opposition to Motion to Dismiss and to Support Plaintiff's

¹Rec. Docs. 8 and 27.

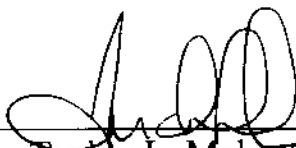
Amended Complaint [Rec. Doc. 33] is **GRANTED**; however, based on the history of this proceeding, the attorneys representing the defendants, within five days of this order, are to confirm to plaintiff that her amended complaint has properly named the defendant(s). The attorneys representing the defendant shall also advise plaintiff of the appropriate agent(s) of service by filing this information into the record of this proceeding and by copy to the plaintiff.

IT IS FURTHER ORDERED that within twenty days of the receipt of this information, plaintiff shall file her Amended Complaint together with a copy of her Notice of Right to Sue and shall properly serve defendant(s).

IT IS FURTHER ORDERED that the service of process heretofore executed on defendant is **QUASHED**.

IT IS FURTHER ORDERED that plaintiff's Motion for Service and Summons and Complaint by the U.S. Marshal is **DENIED**.

Thus done and signed this 17th day of August, 2006 at Lafayette, Louisiana.



Tucker L. Melançon
United States District Judge